IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: **Simon Jeremy East et al.**   Confirmation No. **5211**
APPLICATION NO.   **10/572,174**
FILED: **March 16, 2006**   Examiner: **H. Fan**
CASE NO.   **357358.00003**   Group Art Unit: **2456**

TITLE: **METHOD OF PROVIDING CONTENT TO A MOBILE WEB
                  BROWSING DEVICE**

FILED ELECTRONICALLY ON September 17, 2010

Commissioner for Patents
MAIL STOP APPEAL BRIEF-PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Board of Patent Appeals and Interferences

<u>**APPELLANTS' BRIEF**</u>

This brief is in furtherance of the Notice of Appeal filed in this case on July 19,

2010. The Commissioner is authorized to charge the fee for filing of this Appeal Brief to

Deposit Account No. 50-4364.

1.   REAL PARTY IN INTEREST

The present application is assigned to Critical Path Data Centre Limited, having

its principal place of business at Beechfield House, Winterton Way, Lyme Green Business and

Retail Park, Macclesfield, Cheshire, United Kingdom SK11 0JP. Accordingly, Critical Path

Data Centre Limited is the real party in interest.

2.   **RELATED APPEALS AND INTERFERENCES**

The appellant, assignee, and the legal representatives of both are unaware of any

other appeal or interference which will directly affect or be directly affected by or have a bearing

on the Board's decision in this appeal.

3.   **STATUS OF CLAIMS**

A.   Claims canceled: 10

B.   Claims withdrawn from consideration but not canceled: None

C.   Claims pending: 1-9 and 11-16

D.   Claims allowed: none

E.   Claims rejected: 1-9 and 11-16

F.   Claims appealed: 1-9 and 11-16

Appealed claims 1-9 and 11-16 as currently pending are attached as the Claims

Appendix hereto.

4.   **STATUS OF AMENDMENTS**

A Reply under 37 C.F.R. §1.111 was filed on September 8, 2008; claim amendments

were made. In response, the Examiner issued a final Office Action on October 28, 2008. A

Request for Continued Examination(RCE) was filed on April 28, 2009, and claim amendments

were made. In response, the Examiner issued a non-final Office Action on June 25, 2009. A

Reply under 37 CFR §1.111 was filed on November 25, 2009; claim amendments were made. In

response, the Examiner issued the final Office Action appealed herein.

A Request for Reconsideration was filed on June 10, 2010; no claim amendments were

made. The submission of the Reply did not result in allowance by the Examiner.

5.   **SUMMARY OF THE CLAIMED SUBJECT MATTER**

Claim 1: A method of providing content to a mobile web browsing device from any of several

different web servers, comprising the steps of: (a)   receiving at a remote computer, connected to

both the device and each of those web servers over a network, a log of data identifying content that

has been viewed by that specific device, the log being generated and sent by the device *[page 3, lines*

5-8; page 5, lines 3-7]; (b) the remote computer identifying automatically without explicit user

request any of that viewed content that has been updated and is therefore to be sent to the device

[page 3, lines 9-10, 16-20]; (c) the remote computer automatically causing only that viewed and

updated content stored on any of the web servers to be sent to the device over the network *[page 3,*

lines 11-13; page 4, lines 3-6]; (d) causing that viewed and updated content to be automatically

stored in device memory *[page 3, line 14]*.

Claim 16: A mobile web browsing device able to download and store content from a web

server over a wireless network, wherein the device is programmed to: (a) create a log of data

identifying the content that is being viewed by the device *[page 5, lines 15-19]*; (b) send that log to a

remote computer automatically without any explicit request to watch for updates of specifically

identified content, the remote computer being connected to the web server and the device over the

wireless network *[page 3, lines 16-32]*; (c) receive from the web server any content that has been

identified by the remote computer as having been updated *[page 4, lines 1-13]*; (d) automatically

store only that viewed and updated content in memory *[page 3, lines 11-13 and page 4, lines 3-6]*.

The present invention provides content to be automatically provided to a mobile web

browsing device from a web server, by the following process: (a) receiving at a computer,

remotely connected to the device over a wireless network, a log of data identifying content that

has been viewed by the device; (b) automatically sending updated content stored on the web

server to the device over the wireless network; (c) causing that updated content to be

automatically stored in device memory. Because user activity is replicated back from the device

to the remote computer, the content cached on a given device can be completely optimised for

the user of that device and no-one else.

6.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Applicant requests the Board to review the following rejection:

1.   Rejection of claims 1-6 and 10-12 under 35 U.S.C. §102(b) based on U.S. Patent

No. 6,029,175 to Chow et al. [Applicant notes that claim 10 is cancelled.]

2.   Rejection of claims 7-9 and 15-16 under 35 U.S.C. §103(a) based on U.S. Patent No. 6,029,175 to Chow et al., and further in view of U.S. Patent Application Publication No. 2003/0088580 to Desai et al.

3.   Rejection of claim 13 under 35 U.S.C. §103(a) based on U.S. Patent No. 6,029,175 to Chow et al., and further in view of U.S. Patent Application Publication No. 2003/0088580 to Desai et al., and further in view of U. S. Patent Application Publication No. 2004/0078292 to Blumenau.

4.   Rejection of claim 14 under 35 U.S.C. §103(a) based on U.S. Patent No. 6,029,175 to Chow et al., and further in view of U.S. Patent Application Publication No. 2003/0088580 to Desai et al., and further in view of U. S. Patent Application Publication No. 2004/0077340 to Forsyth.

7.   ARGUMENT

1.   The rejection of claims 1-6 and 10-12 under 35 U.S.C. §102(b) based on U.S. Patent No. 6,029,175 to Chow et al.

The claimed invention, as claimed in claim 1, is a method of providing content to a mobile web browsing device from any of several different web servers, comprising the steps of:

(a)   receiving at a remote computer, connected to both the device and each of those web servers over a network, a log of data identifying content that has been viewed by that specific device, the log being generated and sent by the device;

(b)   the remote computer identifying automatically without explicit user request any of

that viewed content that has been updated and is therefore to be sent to the device;

(c)   the remote computer automatically causing only that viewed and updated content

stored on any of the web servers to be sent to the device over the network;

(d)   causing that viewed and updated content to be automatically stored in device

memory.

U.S. Patent No. 6,029,175 (Chow) discloses a network agent that intercepts HTTP

transactions between a web browser client and an HTTP server. As described at column 4, lines

57 to 64 of Chow, a user first directs their web browser to an HTML page hosted by the network

agent ("Revision Manager"). The HTML page, shown in Figure 23 of Chow, presents a form to

the user through which the user can submit the URL of a resource in which they are interested.

When the form is submitted by the user, the Revision Manager retrieves the requested resource,

appends a second form to the resource, and transmits the form and resource to the user's web

browser (see column 4, line 64 to column 5, line 1 and Figure 26 of Chow).

This second form, appended to the requested resource by the Revision Manager, allows

the user to specify whether he or she wishes to receive alerts when the resource, stored on a

remote HTTP server, is updated and if so, at what time interval updates should be sent. The form

also allows the user to enter the URL of a new resource that should be retrieved by the Revision

Manager. This field is equivalent to the URL field of the first form and is provided in the second

form purely for the convenience of the user.

As explained in column 5, line 64 to column 6, line 15 of Chow, if the user checks the "Alert me on source update" checkbox shown in figure 26, the Revision Manager will periodically check to see if the requested resource has changed on the remote HTTP server and, if a change is detected, the Revision Manager will store the updated document and notify the user's web browser. On receipt of the notification, the web browser requests the updated document from the Revision Manager.

Finally, all URLs embedded in a resource retrieved by the Revision Manager are modified by the Revision Manager so that subsequent requests generated by a user clicking on a URL are routed through the Revision Manager (see column 4, line 64 to column 5, line 14).

At no point does Chow disclose receiving at a remote computer *a log* of data identifying content that has been viewed by a specific device, the log being generated and sent by the device, as is claimed in claim 1 of the present application. Contrary to the Office's assertion, the user of the device does not send the object of interest to the Revision Manager. As disclosed in the passage of Chow cited by the Office, column 5, lines 32 to 38, what is sent to the Revision Manager from the user's web browser is (1) the URL of the desired resource, which has not yet been viewed by the device, and (2) a binary indication of whether or not the user wants to receive updates. Even if it were to be conceded (which it isn't) that Chow discloses the receipt at the remote computer of the object of interest, this still does not teach or suggest the claimed invention, which receives a log of data identifying content that has been viewed. The claimed invention receives a log, not the content (object) itself. It is notoriously well know that a log in the sense of the present application is much less than the actual content (e.g., changes only).

The Office contends that Chow discloses a "remote computer identifying automatically without explicit user request any of that viewed content that has been updated". It is respectfully submitted that this is not the case. Although Chow discloses that the cache of the Revision Manager is spontaneously updated when objects of interest have changed, for an object to be marked "of interest" the *user must first submit* the second form with the checkbox checked. Hence in Chow updated content previously viewed by the user is not identified without explicit user request – the user *explicitly requests* that the content be checked for updates when he or she submits the form.

Furthermore, the Office contends that Chow discloses "causing that viewed and updated content to be automatically stored in device memory." However, as described in column 5, line 54 to column 6, line 14 of Chow, when the user's web browser is notified of a change in an object of interest by the Revision Manager, it simply issues a GET request to the Revision Manager and displays the updated page to the user. There is no disclosure in Chow of the updated content being stored in device memory. Using the claimed invention, the storage of the updated content on the device means that it is viewable even when contact with the remote computer cannot be established; using Chow, the device must be in contact with the Revision Manager for its GET request to be served.

The Office also states that "the shared cache is equivalent to the device memory." However, it is explicitly stated in column 4, line 23 of Chow that the shared cache is "in the Revision Manager." The shared cache is not located in the device and thus the shared cache cannot be equivalent to the device memory.

For at least the reasons given above, claim 1 and, by virtue of dependency, claims 2 to 9 and 11 to 15 are patentable over Chow. Accordingly, the Board is respectfully requested to reconsider and withdraw the rejection of claims 1-6 and 10 (11)-12 under 35 U.S.C. §102.

    2.   **The rejection of claims 7-9 and 15-16 under 35 U.S.C. §103(a) based on U.S. Patent No. 6,029,175 to Chow et al., and further in view of U.S. Patent Application Publication No. 2003/0088580 to Desai et al.**

Claim 16 is an independent claim and thus is addressed first. Regarding claim 16, the Office contends that the "log of data identifying the content that is being viewed by the device" is disclosed by the "supplying the resource locator in the form appended to modified objects previously accessed" language in Chow. As explained above, the form appended to modified objects previously accessed allows the user to conveniently access a different resource without being required to re-visit the start-up document containing the original form. Thus supplying a resource locator in this form is equivalent to supplying a resource locator in the start-up form. In either case, the resource locator identifies content that is intended to be viewed by the device, not "content that is *being viewed* by the device" as is claimed in claim 16. Furthermore, claim 16 recites that the device creates the log of data, i.e. automatically and without user intervention, whereas in Chow the resource locator is entered into the form by the user.

The Office's remaining objections to claim 16 are addressed by the same arguments submitted above regarding claim 1 and they are thus not repeated herein. The combination of Desai with Chow fails to teach or reasonably suggest the invention as claimed in claim 16. Accordingly, claim 16 is also patentable over Chow and Desai, taken alone or in combination.

Regarding the remaining claims rejected under 35 U.S.C. §103 (claims 7-9 and 15), Applicant reiterates that since each of these claims depend from claim 1, and since claim 1 is patentable over Chow, all of the dependent claims are also allowable. Applicant notes, however that the secondary art cited by the Office (Desai), taken alone or in combination with Chow, does not teach or reasonably suggest the elements identified above as missing from Chow with respect to claim 1. Thus, its combination with Chow does not render any of claims 7-9 or 15 unpatentable.

Accordingly, the Board is respectfully requested to reconsider and withdraw the rejection of claims 7-9 and 15-16 under 35 U.S.C. §103.

3. **Rejection of claim 13 under 35 U.S.C. §103(a) based on U.S. Patent No. 6,029,175 to Chow et al., and further in view of U.S. Patent Application Publication No. 2003/0088580 to Desai et al., and further in view of U. S. Patent Application Publication No. 2004/0078292 to Blumenau**

Regarding the claim rejected under 35 U.S.C. §103 (claim 13) based on Chow in view of Desai et al., and further in view of Blumenau, Applicant reiterates that since this claim depends from claim 1, and since claim 1 is patentable over Chow, this claim is also allowable. Applicant notes, however that none of the secondary art cited by the Office (Desai and/or Blumenau), taken alone or in combination, teach or reasonably suggest the elements identified above as missing from Chow with respect to claim 1. Thus, their combination with Chow does not render claim 13 unpatentable.

Accordingly, the Board is respectfully requested to reconsider and withdraw the rejection of claim 13 under 35 U.S.C. §103.

4. **Rejection of claim 14 under 35 U.S.C. §103(a) based on U.S. Patent No. 6,029,175 to Chow et al., and further in view of U.S. Patent Application Publication No. 2003/0088580 to Desai et al., and further in view of U. S. Patent Application Publication No. 2004/0077340 to Forsyth**

Regarding the claim rejected under 35 U.S.C. §103 (claim 14) based on Chow in view of Desai et al., and further in view of Forsyth, Applicant reiterates that since this claim depends from claim 1, and since claim 1 is patentable over Chow, this claim is also allowable. Applicant notes, however that none of the secondary art cited by the Office (Desai and/or Forsyth), taken alone or in combination, teach or reasonably suggest the elements identified above as missing from Chow with respect to claim 1. Thus, their combination with Chow does not render claim 14 unpatentable.

Accordingly, the Board is respectfully requested to reconsider and withdraw the rejection of claim 14 under 35 U.S.C. §103.

8. **CONCLUSION**

For the foregoing reasons applicants respectfully request this Board to overrule the Examiner's rejections and allow claims 1-9 and 11-16.

Respectfully submitted:

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CLAIMS APPENDIX

CLAIMS INVOLVED IN THIS APPEAL:

1.   A method of providing content to a mobile web browsing device from any of several different web servers, comprising the steps of:

   (a)   receiving at a remote computer, connected to both the device and each of those web servers over a network, a log of data identifying content that has been viewed by that specific device, the log being generated and sent by the device;

   (b)   the remote computer identifying automatically without explicit user request any of that viewed content that has been updated and is therefore to be sent to the device;

   (c)   the remote computer automatically causing only that viewed and updated content stored on any of the web servers to be sent to the device over the network;

   (d)   causing that viewed and updated content to be automatically stored in device memory.

2.   The method of Claim 1 in which the log is generated at the device and replicated at the remote computer.

3.   The method of Claim 1 in which the remote computer views multiple content from the web server and determines if the content has changed.

4.   The method of Claim 1 in which the remote computer views multiple content from the web server and determines when the content has changed.

5.   The method of Claim 1 in which the remote computer is notified by the web server if the content on the server has changed.

6.   The method of Claim 1 in which the remote computer directly sends updated content to the device or causes the updated content to be sent to the device.

7.   The method of Claim 6 in which the remote computer is connected to both the device and each of the web servers over a wireless network, and wherein the remote computer makes a decision whether or not to send, or cause to be sent, the updated content, by taking into account one or more of the following:

(a)   How fast the content on the web server is changing;

(b)   How often the user views the content;

(c)   What time of day it is;

(d)   What day of the week it is;

(e)   What an operator of the wireless network wants to promote.

8.   The method of Claim 7 in which the operator of the wireless network can set thresholds for all of the above conditions.

9.   The method of Claim 7 in which these thresholds are controlled at the remote computer and so can be updated at any point by the operator if it wants to implement different caching strategies.

11.   The method of Claim 1 in which the remote computer sends data to the device that automatically causes the device to display a link to new content, the new content being automatically stored on the device.

12.   The method of Claim 1 in which the device includes a user interface that indicates whether given content is already stored in device memory or not.

13.   The method of Claim 1 in which the log also records the time that a specific item of content was viewed by the device.

14.   The method of Claim 1 in which the log identifies whether content that is being viewed is updated content that had earlier been stored in device memory.

15.   The method of Claim 1 in which the updated content is sent at off-peak periods or to otherwise fill bandwidth troughs.

16.   A mobile web browsing device able to download and store content from a web server over a wireless network, wherein the device is programmed to:

(a)   create a log of data identifying the content that is being viewed by the device;

(b)   send that log to a remote computer automatically without any explicit request to watch for updates of specifically identified content, the remote computer being connected to the web server and the device over the wireless network;

(c)   receive from the web server any content that has been identified by the remote computer as having been updated;

(d)   automatically store only that viewed and updated content in memory.

EVIDENCE APPENDIX

No additional evidence is presented.

RELATED PROCEEDINGS APPENDIX

No related proceedings are presented.